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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,808	09/15/2000	Jin-Tae Roh	2950-0172P	1694

2292 7590 08/19/2004

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EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT PAPER NUMBER

2653

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/662,808

Applicant(s)

ROH, JIN-TAE

Examiner

Aristotelis M Psitos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-15, 17-19 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Applicants' response of 6/9/04 has been considered with the following results.

Claim Objections

Claims 3,5,6,11-17 and 19 are objected for the following reasons:

Claims 3, and 17 are objected to because of the following informalities: (further limit the parent claim).

a) claims 5,6 and 11,12 are not interpreted as further limiting the access method, but are rather drawn to a recording ability defined as "closes" /closing of a session. These claims (and their dependent claims) are drawn to a recording ability, not a searching ability.

b) claims 13 & 14. Claim 13 is also drawn to a determination predicated upon "abnormally" presence. However, such ability is not provided for, i.e., claim is written as a result --- for which recording has been done abnormally --- rather than first determining/detection such a condition exists. Dependent claim 14 falls accordingly.

c) claim 19 does not further limit the apparatus claim.

d) claims 15-17 & 19. In claim 15, the ultimate paragraph is a means. However, it is written to provide for a plurality of functions. Hence the examiner is not certain as to what element this means is, or as to what element(s) yield such recited functions as:

1) control pickup position, 2) check whether or not data has been recorded, 3) change position.

Further elaboration is respectfully required.

Claim Rejections - 35 USC § 112

Claims 2 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

With respect to claim 2, the "tentative control area" and its location is not readily apparent as originally filed.

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With respect to claim 17, neither the "predetermined modulation method", nor its detection is readily apparent as originally filed.

Claim Rejections - 35 USC § 112

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 5,6,11-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5,6,11-12 fail to further limit the seeking method of their parent claim, but rather are drawn to a recording ability – i.e., the ability to "close" a recording session.

Claims 13-14 fail to properly present the additional step of detecting for an abnormality (and defining such).

No art is developed with respect to the above noted claims.

As far as the claims are interpreted (see below) the following rejections are presented

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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1. Claims 1-4, 7-9, 15, 17-19 are rejected under 35 U.S.C. 103(a) as being obvious over Hwang et al further considered with Udagawa ('862).

With respect to claims 1 and 9, the examiner submits the following interpretation of Hwang et al. Hwang et al provides for a multi-session recording ability and inherently such requires the positioning (as originally required by the first track to be recorded) and any repositioning of the appropriate elements in order to record subsequent sessions. Although the entire document is relied upon, as well as those figures/embodiments focusing upon the multi-session(s) ability – figures 4, 5 and 8, the examiner further draws applicant's attention as follows:

Claim 1 requires the steps of:

a) reading the disk for data recording information indicative of a last recorded track and a position for data to be recorded. This is found in the description of the starting track address for both the first track as well as the next subsequent track.

There is no clear depiction that the area subsequent to the to be recorded information position (address) is examined to see if such recoded data or not. The examiner interprets that this is what (step) b) in claim 1 is defining.

Also, as further defined by (step) c) there is no ability in Hwang et al to make any determination to change the position for the to be recorded information to another position for new input predicated upon a result of step b above.

Udagawa discloses in this environment, the ability of discovering unrecorded areas/boundary and subsequently uses binary detection ability to fine tune such. Udagawa teaches in this environment the ability of recoding information onto an optical disc and determine if information is properly recorded thereon – see the discussion with respect to the rf detection circuit 45 in figure 4 as well as the additional discussion with respect to figure 6.

It would have been obvious to modify the base system of Hwang et al et al with the above teaching from Udagawa and provide for an examination of whether subsequent areas have data recorded there on or not, hence meeting step b in the above claim. Inherently Udagawa determines to

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change the recordable position to this other non-recorded area, and hence step c is met as well.

Motivation is to permit the overall modified system to skip previously recorded areas and discover/seek unrecorded areas quickly.

With respect to claim 2, the examiner interprets this as the TOC area. As known, TOC areas are normally located as recited (within the lead-in areas of the tracks.

With respect to claim 3, the examiner interprets the binary checking format/ability of Udagawa as meeting such.

With respect to claim 4, the Udagawa system checks for a predetermined time for the unrecorded area/region. The examiner interprets such as being longer than the "pause" areas known/inherently present in cd records.

With respect to claims 7 & 8 such are present in the above system, i.e., the new location/ i.e., that where no information is located is inherently located subsequent to the final position of the recorded data – i.e., longer than the 11T signal – see the description of figure 6 which the examiner interprets is longer than the "pause section specified to be a gap" as required by claim 8.

With respect to claim 9, steps a,b,and c, as written are considered met by the above combination of references – see the above analysis with respect to claim 1 and steps a,b, and c above.

With respect to apparatus claim 15, the pickup unit and moving unit as recited are considered inherently present in the above systems in order to appropriately reproduce the information upon the disc. Alternatively, such elements are considered well known as acknowledged by applicant in his discussion with respect to the "conventional art". The controller is the appropriate hardware that deciphers the flow charts depicted in Hwang et al-Udagawa combination.

With respect to claim 17, the binary signal ability is considered disclosed/met by the Udagawa description of the unrecorded data state.

With respect to claims 18 and 19, the lead in areas of Hwang et al provides for the recordable position (address data).

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Allowable Subject Matter

Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M Psitos whose telephone number is (703) 308-1598. The examiner can normally be reached on M-Thursday 8 - 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Aristotelis M Psitos
Primary Examiner
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A handwritten signature in black ink, appearing to be 'A. Psitos', written over the printed name and title.

AMP

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